1549

A LETTER CONCERNING PREROGATIVE.

Addreſſed to

C——r N——n, Eſq;

1755

BRITISH MUSEUM

A

LETTER

CONCERNING

PREROGATIVE.

Addreſſed to

C——r N——n, Eſq;

Great Claims are HERE made, and great Secrets are known,
And the KING and the LAW and the THIEF has his own.

BALLAD, *Derry Down.*

Would the Clergy no longer intermeddle with Worldly Matters, either in COURT or PARLIAMENT;——Then the GRAND OPPRESSOR would deſpair of DIVIDING and RUINING US.——TRUTH would revive, Piety flouriſh, Honeſty prevail, Hypocriſy be baniſhed, BRIBERY ceaſe, Infidelity be aſhamed, FACTION vaniſh, and the Government be made ſafe and eaſy. *Whiſton's Suppoſal*, p. 146, 147.

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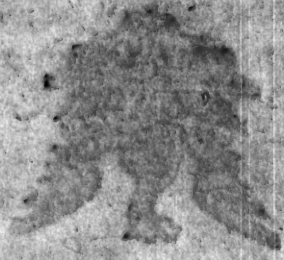

PERIODICAL

CONCERNING

LETTER

A LETTER CONCERNING PREROGATIVE, &c.

SIR,

NOT for your Information, but to justify, and give Sanction to, the Doctrine and Principles maintained in the following Paper, it is that I addreſs myſelf to you; when I ſit down to enquire, how far that PREROGATIVE of Magiſtracy, called Prerogative, may be ſaid to ariſe from the Nature, State and Condition of Man, and the legitimate End of Society; from whence, perhaps, we may be able to obtain ſuch Notions of particular Points, ſuppoſed to range themſelves under this Denomination, that by comparipg them with the Principles on which it is founded, a true Deciſion may be made of the Reality of their Pretenſions. Man, little qualified for that ſupreme Happineſs, which Solitude affords Contemplation and Independance, is a naked and a needy Animal; his

Wants

Wants many, his Means little.—Yet is he not altogether deſtitute.—An Heir to Reaſon, and Labour is his Portion.—By Sagacity and Toil, he muſt ſupply himſelf with thoſe Things, whereof he hath Occaſion, and for which Nature has made no Proviſion.—But ſtill his Abilities and Capacities are circumſcribed; though if not his Neceſſities, at leaſt his Appetites, are endleſs and without Bounds.

The Faculties, Tendencies, and Performances of Men are various as their Faces; which ſuppoſes, with the Idea of their Exiſtence, a reciprocal Exchange of the Superfluities of one Man's Labour for the Surcharge of another's, whereof he ſtands in Need.

Thus Men become ſociable; mutual Support and Aſſiſtance being made neceſſary to each by their natural Poverty and diverſe Purſuits. (a)

However, this Sociability ariſing from Want, ſuppoſeth no Subordination; with Reſpect to his Will and his Actions, Man is ſtill independent and free.——He may do, or not do, in all Caſes at Pleaſure; whence it naturally follows, that if one Man be ſtronger than another, he has no Reſtraint but his Reaſon, to withhold him from

(a) Foraſmuch as we are not, by ourſelves, ſufficient to furniſh ourſelves with a competent Store of Things, needful for ſuch a Life as our Nature doth require; therefore to ſupply the Defects and Imperfections which are in us, living ſingly and ſolely by ourſelves, we are naturally induced to ſeek Communion and Fellowſhip with others.

Hooker's Eccl. Pol. Sect. 1, p. 24.

ſeizing

ſeizing by Violence whatever the other ſhall be poſſeſſed of, that may make for his Uſe or Enjoyment; and how feeble the Bridle of Reaſon is, to refrain the Impetuoſity of turbulent Paſſions, let the human Heart declare. Seeing then, that to live in Society and mutual Commerce with each other, was not only for the Advantage, but even neceſſary to the very Being, of each and of all; and that Men were prone to Rapine and Wrong: It behooved them therefore, in their cool and ſober Intervals, to conſider, how Violence might be prevented, Civility promoted, and the Benefit of each Man's Toil inſured to his own particular Advantage.

And hence aroſe the Evil of Government; Individuals being obliged to abridge their natural Liberty of acting at Pleaſure, and by mutual Compact and Agreement, enter into certain external Regulations conformable to Reaſon and Juſtice, by which they engaged to ſquare their future Conduct. *(b)*

But by former Experience it had been found, that the Sanctions of Rectitude, and general Utility, were not ſufficient to reſtrain the Paſſions and Appetites of Man, given as a Whet to Enjoyment, and ſpur to his Actions, when once

(b) To take away all ſuch mutual Grievances, Injuries and Wrongs, there was no Way but by going into Compoſition and Agreement among themſelves, by ordering ſome Kind of Government public, and by yielding themſelves ſubject thereunto. Hooker's Eccl. Pol. Sect. 10, p. 25, l. 1.

they

they exceeded the Authority of Reaſon, their proper Guide and Director; Prudence therefore provided, that Enforcements ſhould be connected with theſe covenanted Rules and Standard of Action, which applying to the Paſſions (c) themſelves, might compel them within the Bounds of their Duty. Now Fear being a Paſſion of powerful Influence, ſtrongly to affect, this ſeemed the moſt probable Means of forcing Obedience; for which Reaſon, by common Conſent and Agreement, Puniſhments were annexed to the Tranſgreſſion of LAW, that is, of thoſe Rules and Regulations, for which Individuals conſented to renounce their natural Liberty and Independance, and to which ſubmitting themſelves, they were to be governed by.

YET ſtill are theſe Laws a dead Letter; no Method having been hitherto eſtabliſhed for carrying them into Execution.—For who on Offenders ſhall inflict the Penalties incurred by Tranſgreſſion? Individuals may, of themſelves, endeavour to maintain the Obſervance of Laws, by Admonition and Counſel; but if a private

(c) Laws politick, ordained for external Order and Regiment amongſt Men, are never framed as they ſhould be, unleſs preſuming the Will of Man to be inwardly obſtinate, rebellious and averſe from all Obedience to the ſacred Laws of his Nature; in a Word, unleſs preſuming Man to be, in Regard to his depraved Mind, little better than a wild Beaſt.

Hooker's Eccl. Polit. lib. 1, ſect. 10. p. 24.

or

of particular Perſon, ſhould pretend to punish, (d) the Bands of Society muſt be diſſolved by his Rashneſs; each then would think, and indeed juſtly, he hath an equal Right with his Neighbour, and like him having judged of the Offence, according to his own Prejudice and Paſſion, would endeavour to exerciſe the Reſtraints of the Law, till at length the Community would become Confuſion, and all return to their original Violence and Diſcord; or elſe one more mighty than the reſt, having ſeized upon the Authority of ALL, would convert the free State into a Society of Slaves.

How then ſhall the Laws be adminiſtered, or in what Manner ſhall their Penalties be inflicted, ſeeing no private Perſon can exerciſe this Juriſdiction, and the Community is compoſed of none but private Perſons, *i. e.* of ſuch as are in all Reſpects equal?

From the common and univerſal Conſent of all is derived the Authority of the Laws, not from the Appointment of any Individual, wherefore the Right of exerciſing this Authority, is

(d) For though it be ſaid, "that every Man hath a Right "to punish the Offender, to be the Executioner of the Laws "of Nature." Locke's 2d Treatiſe concerning Government, p. 168. yet it muſt be on a ſuppoſition, that then would act impartially and virtuously. Whereas we know that no Man ought in Reaſon ſuffer Him to determine his own Right, and according unto his own Deſervedneſs, proceed in Maintenance thereof; in as much as every Man is towards himſelf, and thoſe he greatly wiſheth well unto, partial.

Hooker's Eccl. Pol. lib. 1, ſect. 10, p. 26.

vested only in those, whose Consent creates or gives Sanction to it. And yet it would be absurd for the People to pretend to the Exercise of this their own Authority, because of the Difficulty, if not Impossibility, there would be to convene them for every Occasion, as well as the Inconveniencies that must attend the Slowness of their Determinations, and Openness of their Councils. To guard against Usurpation or Confusion on the one Hand, and to enforce Obedience to the stipulated Laws and Conditions of Union on the other; the Exercise of the Authority of the Laws, was NECESSARILY committed by the common Consent (a) of the People themselves to the Administration of one or a few, who being ever present, might superintend the Observation of the Laws, and command Obedience by inflicting the Punishments annexed to the Violation of them, with the whole Force as well as Authority of the Community; the Office of exercising this Authority is called Magistracy, and the Executor Magistrate.

But as Man is a passionate, so is he a fallible Agent, of short Foresight, and limited Endowments; many therefore must be the Cases for which no positive or established Law could

(a) Strifes and Troubles would be endless, unless they (the People) gave their common Consent, all to be ordered by some whom they shall agree upon.

Hooker's Eccl. Polit. lib. 1, sect. 10, p. 26.

have

have been by such Consent and Agreement provided. And as assembling the People for every unforeseen and accidental Contingency, would be found very inconvenient, as well as that the Occasion might be such, as could not, though of the greatest Consequence, wait upon the Delays and Difficulties which must naturally happen, before the Society could convene or determine; a Power becomes of Necessity vested in the Magistrate, to legislate and act in such occurrent and extrajudicial Cases, according to the Tenor of the original Compact, for the publick Good and Advantage.

And this Power is what has been properly called Prerogative of Magistracy. Prerogative is then no more than a Power to do Good without Law, of which the Magistrate cannot be divested, without endangering, if not destroying, the Community, and to which consequently he has a Right, founded on the main End and Aim of Society, the Good of Mankind, with which it is absolutely congenial.

Yet still the Right of exercising this Power of doing Good, like the Right to all other Earthly Power, is derived from the Appointment and Consent of the People. (b)

From the foregoing Deductions it will also follow, that in Cases subject to the Prerogative,

(b) Without which Consent there would be no Reason, that one Man should take upon him to be Lord or Judge over another.

Hooker's Eccl. Polit. lib. 1, sect. 10, p. 26.

as just now explained, (being as yet provided for by no established Law,) and for which sufficient and equal Provision may be made, as soon as a just and perfect Knowledge of the Nature and Necessity of the same may be had; on any future Convention of the People, publick and universal Consent may regulate this also by Law for all future Occasions. Prerogative being only of two Evils the least, complied with from Necessity, and founded on the Errors and Ignorance of Men; whereas Laws result from Knowledge and Prudence.

Hence also we learn, that to intitle the Magistrate to act by Virtue of Prerogative, it is requisite the Case be at present such as no established Law can be said to provide for, that it be of Moment to the State, and that it cannot admit of the Delays incident to the Deliberation and Enacting of the Legislative Assembly.

It might possibly be objected, that according to this Explanation and Theory of Prerogative, the Magistrate may turn this Power of acting without Law, to the Disadvantage, may even Destruction, of the Society, as he must be supposed absolute Judge of those Requisites, which intitle him to act by Virtue of Prerogative. But this is also an Objection against [illegible] intrusted with the Administration of the Laws themselves, for these also may be invaded or perverted, and only serves to shew, that all Things, even the best are liable to Abuse; of which Abuse

but the Community are not left without Redress to them whose Steward, Trustee and Delegate the Magistrate is, he becomes accountable for every Neglect of Justice, every Invasion of publick or private Property, every Perversion or Subversion of the LAWS; they are the sole Judges and may redress either by removing for Incapacity, or punish for wilful and actual Transgression. To (c) what Purpose else would the People enact Laws, and appoint in their Name and Stead an Executor of them, if this Executor should have Power to alter, transgress or invade these Laws at Pleasure, or, which is the same Thing, without being subject to be made accountable by and to the People for his Conduct? Without this Power, it could not be said, so far as respects the Magistrate, that the Society had any Laws at all. We could not suppose him to be directed by any Thing but his own arbitrary Will and Pleasure. In this Manner, every Action of the Magistrate, in extrajudicial and extraordinary Cases, is subject to the Inquiry of the People, whether such Action, without Law, be according to the Legitimate Idea of Prerogative, FOR THE PUBLICK GOOD AND ADVANTAGE? The People are Judges what may be for their Good and Advantage. Prerogative intitleth the Magistrate to do only Good without Law, consequently the People may

(c) Vide Fatal Consequence of Ministerial Power,

reprehend

(d) reprehend for any Extrajudicial Action of the Magistrate, whereby the Publick hath been injured, as if an established positive Law had been invaded and violated, this being an Action warranted neither by Law nor Prerogative, for as has been often said, Prerogative gives a Power to do, ONLY Good, without Law.

Some may be some, even at this Day, ready to observe, that the People can not determine whether any particular Exertion of Prerogative, be for the publick Good and Advantage, as they ought not to be both Judge and Party; If indeed the Laws and the Right to administer them, was a Depolite received by the Magistrate from a third Hand, to whom it belonged, and that the People and their Magistrate, where to have a mutual, or joint Property in the Be-

(d) If Princes exceed their Bounds, *i. e.* the Bounds which the Laws and the good of their Subjects prescribe them, they may be resisted even with Power; for there is no greater Honour nor Obedience to be given to Princes, than God hath commanded to be given to Parents and Mother. If Children join together against their Father, stricken with a Phrensy, and seeking to slay his own Children; apprehend him, take his Sword from him, bind his hands, &c. till his Phrensy be over-past, do they any Wrong? or will God be angry with them, for hindering their Father from committing horrible Murther? Even so, Madam, if Princes will murther their Subjects, the Children of God, their Cruelty is but a mad Phrensy; to take the Sword from them, &c. is not Disobedience, but just Obedience; because it agreeth with that first Law of God and Nature, Self-preservation; vide JOHN KNOX's CONFERENCE WITH QUEEN MARY; in Calderwood's true Hist. of the Church of Scotland, P. 31.

nefits

nefits arising from the Exercise of it; I would readily grant, when a Dispute should fall out between them, about the Exercise of that, which was for their common Advantage, their Arbitrator could be no other than the Donor. And when ever a Magistrate should produce his Patent from Heaven, authorising him to govern any People, I shall not scruple to divest them of that Right, which I have supposed they possess, to judge and determine about the Actions of their Magistrate. But till then, as we must derive to the Magistrate his Right of Administring the Laws, and acting by Prerogative, from the Appointment of the People; so in all Questions between them and him, we must admit they are as much the Arbiters, as a Master over his Steward, and have the same Right to reprove and turn out, that he has. For my Agent is accountable to me for the Conduct of my Affairs, and I have an undoubted Right to take that which is mine, from under his Management and Direction, whenever I apprehend he has misused my Confidence in him. (e)

It must be acknowledged that the Magistracy, under such Limitations, would be by no means

(e) For who shall be Judge, whether his Trustee or Deputy acts well, and according to the Trust reposed in him, but he who deputes him, and must, by having deputed him, have still a Power to discard him, when he fails in his Trust? Locke's second Treat. concerning Govern. p. 308.

a desirable

[illegible] Office, liable to Punishment and Reproof for every Error of Judgment, as well as voluntary Offence and Transgression, must make few willing to invest themselves with the Character of Magistracy.

As an Indemnity [illegible] for the Failings of Humanity, they are willing to impute every Invasion of the Laws, every unjust Exertion of Prerogative, to the Advisers and immediate Executioners of such illegal and hurtful Acts and Decrees of the Magistrate, and therefore will be deemed culpable. (x)

[illegible] imagined thereby, reserving the whole Right of legislating to the People, and giving them a further Right to proceed on their first Principles of Conduct, where Defects or Inconveniencies arise, from the Want of positive and established Laws in particular Cases, that no more remains to the Magistrate, than the mere Execution of such Laws as shall be for certain Cases appointed by the Consent and Decree of the People. [illegible] and ascertain are human Advantages, and [illegible] the Power light and Providence of Heaven a sufficiency of Subjects must [illegible] produced, for the Exertion of this Power, com-

(x) The Opinion [illegible] Commander of any Army, [illegible] who can have no Authority, [illegible] as mischievous, as [illegible] Treat. concerning Govern. p. 280.

mitted

mitted to the Magiſtrate, by Reaſon and Neceſſity, of acting, in Caſes, for which has been made no eſpecial Proviſion, according to the Dictates of his own Wiſdom and Prudence, for the publick Good and Advantage. And tho' Proviſions ſhould be made every Day for one Caſe or other of this Kind, by expreſs and eſtabliſhed Laws, yet others muſt ariſe, as much extrajudicial as the former. Nay ſuch is the Nature of Things, that in certain Caſes by Laws to limit, ſpecify or direct the neceſſary Operations, would be not only repugnant to Reaſon, but alſo deſtructive to the Society and their own Ends. Such muſt for ever remain ſubject to the Prerogative of the Magiſtrate. To throw the ſtronger Light on the Doctrine here inſiſted on, I ſhall inſtance a few of this Nature.

As Men multiplied and ſpread themſelves over the Face of the Earth, many, by being remote from the Seat of Authority, were but lightly affected by the Influence of Government; for the *Vis*, or Power of the People, collected in the Magiſtrate diminiſheth, as the Diſtance therefrom is increaſed; whence thoſe at the utmoſt Extremes, but weakly connected to the reſt of the Community, will eaſily break off from the Body, and by the Tendency Men neceſſarily have to each other, collect themſelves into a new and more compact Society, indepen-

dent of the former, and ſubject to their own Laws and Regulations.

Now tho' the Intereſt of Mankind be but one and the ſame, yet as Individuals jarr in their Purſuits, and often run counter to the public Weal, for apparent private Benefits, ſo Neighbouring States, that ſhould be connected by one common Band of Humanity and Benevolence, are often ſet at Variance by the Ambition, Avarice or Intemperance of their Governors, nay even of private Perſons; whence muſt inſue Invaſion of Property, with Repriſals for Damages ſuffered, till actual War and Hoſtility be commenced for the Redreſs of ſuppoſed Wrongs, or the Recovery of real or imaginary Rights, and Poſſeſſions.

Now for the People to limit or preſcribe by written and eſtabliſhed Laws, the Occaſion, Time, Place, and Manner, according to which the Magiſtrate ſhould be directed, when he comes to exert the Power and Strength of the Community, againſt foreign Invaders, would be abſolutely repugnant to the Nature of the Thing itſelf, and inconſiſtent with the End and Aim of Society, the Preſervation and Happineſs of the Whole, and every Individual. For as the Cauſes and Occaſions of War muſt be infinitely numerous, ſo likewiſe muſt the Manner, Time and Place be various, when, whereby or wherein, it will be moſt expedient to proſecute the ſame.

Whence

Whence for ever muſt remain to the Magiſtrate an EXCLUSIVE RIGHT, of declaring Peace and War, and indeed of tranſacting moſt of the publick Buſineſs, which relates to their Neighbours, according to his own Wiſdom for the publick Good and Advantage—— and even here, what was before aſſerted, that Prerogative was founded on the Errors, Ignorance and Incapacity of Man, is plainly eſtabliſhed; becauſe could the Manner, Occaſion, &c. be particularly pointed out by Laws already enacted, for regulating the Conduct of a War, or did the Nature of the Thing give Time for the Aſſembling and Deliberating of the People, it would certainly be ſecurer and more advantageous to the Society, that their Dictates ſhould in this Caſe alſo preſcribe the Operations of the Magiſtrate. I have ſaid an EXCLUSIVE RIGHT was lodged in the Magiſtrate, of declaring Peace and War; but I would not thereby be underſtood to deprive the People, when collected as a Legiſlative Body, of all Right to adviſe Proceedings, or act in Caſes of this Nature. What I mean is, that the Magiſtrate, by the Neceſſity of the Thing itſelf, is impowered to ACT on theſe Occaſions, by Virtue of his own, and independent of any other, Authority; but ſtill ſo, that the Tendency of his Actions be for the publick Good and Advantage. Whence we find, that ſhould he delay or neglect to ACT on ſuch Occaſions, the People may, having

ing all Authority in themſelves, proceed to adviſe, nay even conſtrain him to act, as may be, in that Particular, for the Good and Advantage of themſelves. Otherwiſe the Society might be deſtroyed more effectually, by the Indolence or Timidity of one Man, than by the ſlow Deliberations, and ſlower Execution, of the Multitude.

The other Caſes I intend to mention, where the Power of the Magiſtrate could not be limited, by expreſs eſtabliſhed Laws, without manifeſtly hurting the Society, are taken from the Internal or Domeſtic Government of the State. Many more might be produced of the ſame Nature; which would alſo ſerve to confirm my former Aſſertion, that Prerogative was founded on Neceſſity and the Ignorance and Errors of Men, for their Good and Advantage. But my Buſineſs is not to enter into a particular Detail of the whole Deſign and End of Government, a few Inſtances, whereby the Nature of this preſent Subject may be illuſtrated, ſhall ſuffice for my Purpoſe.

As a Legiſlative Body the People cannot, either they or their Repreſentatives be always aſſembled; the Thing itſelf would be impracticable and indeed uſeleſs; (*b*) becauſe there is no Occaſion to be always making Laws, tho' it is neceſſary they ſhould be always adminiſtering, and executing; but tho' the People can not, nor

(*b*) Vide Lock concerning Government.

need

need not, be always collected in this Capacity, yet there muſt come a Time, when they ought to be aſſembled, either to repeal old Laws diſuſed, or grown by Length of Years, and human Uncertainty, hurtful, or enact new, become needful on the ſame Account; yet ſtill it is impoſſible for them to foreſee at what Intervals they ought to aſſemble, and what might be the Occaſion of their Meeting, whom then does Reaſon and Expediency direct to entruſt with the Power of calling them together, but with thoſe who are ever preſent, and whoſe Buſineſs it is to watch over the publick Good? Hence alſo the Power of convening the Legiſlative Body of the People is another Branch of Prerogative.

It muſt be obſerved, that this Power of calling together the Legiſlative Aſſemby, gives no Superiority to the Executive, over the Legiſlative Part of the Society, becauſe this Power, like all other Branches of Prerogative, is A FIDUCIAL TRUST REPOSED IN THE SUPREME EXECUTOR OF THE LAWS, FOR THE SAFETY OF THE PEOPLE, IN A CASE WHERE THE UNCERTAINTY AND VARIABLENESS OF HUMAN AFFAIRS COULD NOT BEAR A STEADY AND FIXED RULE; (a) conſequently the Abuſe of this Power is a Breach of Truſt and Faith with the People,

(a) Vide Lock's 2d Treat. concern. Government. p. 247.

whereby

whereby, ſo far as depends on the Magiſtrate, the Government is diſſolved, and the Power devolved into the Hands that gave it, which they may exerciſe for their own Safety. (b)

To relax the Rigor of the Laws, nay even to remit the Puniſhment due to Tranſgreſſion, and to pardon the Offender, is another Prerogative of that Kind we have been treating, ariſing from Neceſſity and Expediency, as do all the reſt. The Intention of the Culprit, the Circumſtances of the Crime, may be, no Doubt, Mitigations in Favour of the accuſed, as well as the Manner and Occaſion of the Proſecution, and theſe may be ſo multiplied in themſelves, and ſo complicated with other Circumſtances either for or againſt the Offender, that to make Exceptions by general eſtabliſhed Laws for ſuch accidental Contingencies, would be altogether impracticable, and defeat the very End and Aim of the Laws themſelves. And yet ſuch Mitigations may very well be ſuppoſed in Behalf of a Perſon, by whom the Letter of the Law has been abſolutely and peremptorily invaded, that were he arraigned before the Tribunal of the People, he

(b) For all Power given with Truſt, for the attaining an End, being limited by that End, whenever that End is manifeſtly neglected or oppoſed, the Truſt muſt neceſſarily be forfeited, and the Power devolve into the Hands of thoſe that gave it, who may place it anew where they ſhall think beſt, for their Safety and Security.

Lock's 2d Treat. concern. Govern. p. 243.

would

would be moſt certainly acquitted; they having in themſelves Authority to declare what are Breaches of their Laws, and to interpret, for the Sake of Mercy, as well the Intention of the Laws, as of the Offender. Now if it be more eligible that ten guilty ſhould eſcape, than one innocent Perſon ſuffer, it is but reaſonable and neceſſary, that a Power of interpreting IN THE SAME MANNER, AND FOR THE PEOPLE, ſhould be committed to the Magiſtrate, whereby he may be enabled to protect the Innocent. Nevertheleſs if it ſhould ſo happen, tha a Culprit is condemned by the Voice of the People, as a Legiſlative and Judicial Aſſembly, it will not be requiſite that the Magiſtrate ſhould have Power to grant any Indulgence, becauſe the whole People are ſuppoſed more adequate Judges of the Offence, as well as the mitigating Circumſtances, than one or a few; and they having condemned him, the Convict muſt be deemed worthy of Puniſhment, conſequently there can be no Room for Mercy or Prerogative; Prerogative being but a Power to do good without Law, a Power neceſſarily ariſing from the Nature, State and Condition of Man, and which, being eſſential to his Happineſs and Safety, derives to him the moſt perfect Freedom he is capable of enjoying; and to the Exerciſe of which he is morally obliged to ſubmit, being the Ordinance of God,

eaſily

eaſily comprehended by his Reaſon, and manifeſted in his own Boſom.

For if God willeth the Good of his Creatures, and if that Good, in the preſent Frame and Conſtitution of Things, be attainable only by living in Society and ſubmitting to external Regulations founded on Reaſon and Juſtice; and if this Submiſſion is only to be procured by inveſting one or more with the Execution of theſe Regulations, and alſo with a Power to act for the publick Benefit and Safety, where no Regulation has been made; it follows, that this Power to do Good without Law, called Prerogative, is the Appointment of God, to which we muſt ſubmit, becauſe the Will of God, when it can be known, becomes a Law to Man.

True it is, Men may aſſociate themſelves together, without entering into any Conditions with each other, than that they all ſubmit to the abſolute Dominion of one Man, and without Limitation on his Part, which they have as good a Right to do, as I to become the Servant or Bondman of any one; and each Individual is as poſitively obliged to every Ordinance of this abſolute Maſter, as he would be to the Laws in a free State; becauſe his Submiſſion to the Will and Command of this Magiſtrate, is his Part of the Contract, which he pays for the Benefit he receives from the Fellowſhip of thoſe he is aſſociated with; nor can he, in any Reſpect, withdraw

his

his Allegiance from that Magistrate, so long as the Society, or a great Majority of the Society, consent to remain under this Administration, and he continues a Member of that State. (c)

But as the Power of the Magistrate is, in this Instance, extended far beyond the natural Bounds prescribed by Reason, and the Good of Mankind, the People in general may reduce it within it's natural Limits, being under no other Obligation to admit this extraordinary Extension, but their own Consent; seeing that such a Plenitude of Power might be turned to the Hurt or Destruction of Mankind, when in the Hands of a frail or ignorant, not to say, wicked, Director; and where is he who sets up for Infallibility, infinite Wisdom, Goodness and Justice, the only Qualifications which can intitle any one to the Government of others, unless it be by their own Consent?

Even should we have the clearest Conviction of the Goodness and Wisdom of any Man, mere Man, we are not obliged by the Laws of Nature, that is, the Voice of Reason, to submit to every

(c) Every Man that hath any Possession or Enjoyment of any Part of the Dominions of any Government, doth hereby give his tacit Consent, and is as far forth obliged to Obedience to the Laws of that Government, during such Enjoyment, as any other under it; and in Effect it reaches as far as the very Being of any one within the Territories of that Government.

Locke's 2d Treat. concern. Govern. p. 233.

Thing he ſhall preſcribe to us: We are obliged to be virtuous, let who will explain the Duties, or put us in Mind to obſerve them; but theſe Duties do not derive their Obligations from the Wiſdom, Goodneſs, or Juſtice of thoſe who explain or promulge them; they are obligatory, becauſe they are the Commands of God, declared to our Reaſon by their own Expediency and Utility, and wherever this Expediency and Utility appears, we are bound to follow; but till that be manifeſted to us, the Command of the wiſeſt and beſt, nay even of a Being ſuperior in his Nature, yet liable to Error, may be virtuouſly withſtood, or the Execution of them at leaſt ſuſpended; becauſe the wiſeſt and beſt fallible Being may command Things, which to perform, would be deſtructive to myſelf or others.

To eſtabliſh the Principles laid down in the former Part of this Letter, it is by no Means neceſſary to ſhew, that Men have aſſociated themſelves together, in the very Order, Manner and Form here ſet forth; at preſent, 'tis enough to obſerve, if Society and Subordination or Government be inſtituted and complied with, for the Good and Advantage of thoſe who conſtitute the Society, and conſent to the Government; then this Government and Society may, and ought, be made as conducive to this End, the Good of the Community and Individuals, as the

Nature of the Thing will admit. Which we apprehend is what has been attempted by the little Hiſtory given of ALL Men by God and Nature have a Right to do, with Regard to the Limitation of a Magiſtrate, and alſo of all a Magiſtrate can claim as belonging to his Office.

—But as Government ariſeth from the Imperfections of human Nature, we muſt expect the various Forms which ſhall happen to be eſtabliſhed in different Societies, will be more or leſs perfect, as the People are more or leſs depraved. Yet ſtill under whatever Form of Government a Man finds himſelf placed, 'tis the expreſs or tacit Conſent he gives to be governed by that Magiſtrate or Body of Laws, which ſanctifies their Authority over him; a Conſequence of which is, he may make what he pleaſes the Terms whereon he chuſes to conſent; and in this is implied the Right of making Laws for his own Conduct. Now if ſuch Laws made by the People, and founded on Reaſon and Juſtice, be executed in Virtue of their Appointment, and the Executor, as far as he can be, limited to the Execution of theſe Laws, then we have a Society formed, if not in the Manner, at leaſt on the Principles, pointed out in this Letter.

BUT if it be ſtill objected, that becauſe we have not ſhewed when Men ever did enter into Society and Compact with each other, frame their Regulations and Rules of Conduct, and

alſo appoint in their Name and Authority, an Executor and Superintendant of their Rules or Laws, that they never did aſſociate, make Laws, or appoint an Executor of them; and conſequently that they have no Right to DO what they never DID. Though this be but a trifling Argument, and falſe Concluſion, yet to remove all Manner of Doubt, we can produce from *Juſtin* a Matter of Fact to the preſent Purpoſe.—He ſays,—(*d*) the *Parthenia*, a Part of the People of *Sparta*, having TAKEN *Phalantus* for their Leader, go and ſeek a Settlement for themſelves; when after various Accidents and Adventures, they expel the Inhabitants of *Tarentum*, and ſeize upon that City. Moreover, we find, that *Phalantus*, in Proceſs of Time, baniſhed to *Brunduſium*. From which Fact, ſo lamely related, we may conclude, the *Parthenia* not only choſe *Phalantus* for their Governor and Conductor, but alſo looked upon him as accountable to them for his Conduct.

Thoſe by whom this will not be admitted as a ſufficient Anſwer to the above Allegation, are deſired to turn their Eyes on the Britiſh Government, the Hiſtory and Maxims of which are the beſt Juſtification of thoſe Principles; as on them it is particularly, and Point by Point, founded;

(*d*) Lib. III. Chap. iv.

or

or rather, as the Critic draws his Rules for Epick Poetry, from a Piece already finished; these Principles have been extracted out of the very Essence and Spirit of the British Constitution.

To multiply Quotations and Examples would be needless, as we may easily trace from the dark Accounts conveyed to us, of the first Saxon Conquerors, Founders of our Civil Polity, that their Leaders were either such as the People had called to that Office, or Adventurers, under whom they voluntarily enlisted themselves, upon certain Terms and Conditions for their mutual Profit and Advantage; and we find the Saxons when become a People in Britain, exercising this their Right of Appointing, Changing, and Electing their own Governors or Kings. Osred IId. being CHOSEN King of the Northumbrians, in the Year 789, BECAME SO CONTEMPTIBLE THAT HE WAS SHUT UP IN A MONASTERY in the first Year of his Reign. (c) The People of *Essex* and *Middlesex*, ERECT THEMSELVES into a Kingdom, under the Name of *East Saxons*, in the Year 512, during the Reign of *Otta* King of Kent, of which these Counties made a part. In Wessex; *Seaburge* Widow of *Cenowalch*, Reigned one Year (672,) and was then DEPOSED because the West Saxons THOUGHT IT A DISHONOUR TO OBEY A WOMAN.

IN 688, *Cedwalla* left two Sons, who did not

(c) G. Malm L. 1. C. 3.

succeed

ſucceed him by REASON OF THEIR TENDER AGE. In 727 *Adelard* was placed on the Throne by the CONSENT of the Aſſembly-General. In 754 *Sigebert* was PUBLICKLY DEPOSED BECAUSE he ordered a certain Count to be put to Death, who expoſtulated with him about his Conduct.

In 799, *Brithrick* being poiſoned by his Wife; before the Weſt Saxons proceeded to ELECT a new King, THEY MADE A LAW prohibiting the Wives of future Kings from taking the Title of Queen, or ſitting on the Throne, with their Huſbands, and if any King ſhould DISPENSE with the Obſervance of it, he ſhould be, ipſo facto, DEPRIVED OF HIS ROYAL RIGHTS, AND HIS SUBJECTS ABSOLVED FROM THEIR OATH OF ALLEGIANCE. About the Year 819, the Eaſt Angles Revolted from the Mercians, took up Arms and CHOSE a General, whoſe name Hiſtorians have omitted. About the ſame Time, the Mercians ELECTED a King Named *Ludican*, after whoſe Death being DETERMINED TO CHUSE A KING OF KNOWN VALOUR, they pitched upon *Witglaph*. (a)

BUT moreover the Antient form of Coronation, ſtill obſerved, is as much to the Purpoſe; for the People were aſked, if they would have the PERSON BEFORE THEM TO BE THEIR KING?

(a.) Rapin. Hiſt. of England, Vol. I.

and

and upon their (b) CONSENT the Coronation proceeded. Alſo before the King was ſworn it was demanded of him, whether he would DEFEND his People, PROTECT them and GOVERN ACCORDING to LAW? upon promiſing and ſwearing which, he was Crowned, and received Homage. By the bye I believe his late Majeſty, and King William, were both better pleaſed to reſt their Title to the Britiſh Scepter, on an Act of Parliament, than any chimerical, intrinſic Right, ſuppoſed to ariſe from their own Perſons.

BUT as our Fore-fathers not only claimed poſſeſſed and exerciſed a Right, and Authority to elect whom ſoever they thought moſt fit and proper for their Magiſtracy; ſo alſo if we attend a little to the Maxims, and Fundamentals of our Policy; it will be pretty plain, that this Perſon, ſo called by them, was only, when in Office, an Executor of their own Laws; which they alſo preſerved a Right to Enact, Repeal or Alter, and by which alone they were to be judged and reſtained. For 'tis a Maxim in the Britiſh, and it was a Maxim in the Saxon Policy, THAT THE PEOPLE ARE NOT ONLY TO BE GOVERNED BY KNOWN AND ESTABLISHED LAWS, BUT ALSO

(b) The Conſent of the People was, among the Saxons, delivered by clattering their Arms, a noiſe equivalent to our clapping and huzza.

BY

NO SUCH KNOWN AND ESTABLISHED LAWS ALONE, AS THEY THEMSELVES HAVE MADE OR CONSENTED TO. And further as a Security against the Encroachments, which those who have the Exercise of the Power of the State, might be inticed to attempt against the Liberty of the Subject, our wise Forefathers provided by another Fundamental of our Constitution, THAT NO ORDER OF THE CHIEF MAGISTRATE HIMSELF, THE KING, SHALL INDEMNIFY ANY SUBJECT, BE HE NEVER SO HIGH IN STATION, FOR ACTING CONTRARY TO LAW; OR PUT A STOP TO, OR REVERSE, THE EFFECTS OF AN IMPEACHMENT IN PARLIAMENT (b). Yet farther to give the greater Weight and Dignity to the Laws, their Executor is made sacred in his Person, by that equally wise Maxim, THAT KING CAN DO NO WRONG. And indeed little Detriment can befall the Publick from this Indulgence, when granted to the most wicked and abandoned; because it is not in the Power of a single Man to do any considerable Damage to the Community, in his own Person; and the Maxims, just before mentioned, sufficiently secure the

(b) For the Kings Authority being given him only by the Laws, he can not impower any one to act against the Laws, or justify him by his Commission in so doing; THE COMMISSION OR COMMAND OF ANY MAGISTRATE, WHERE HE HAS NO AUTHORITY, BEING AS VOID AND INSIGNIFICANT AS THAT OF ANY PRIVATE MAN. Lock's Second Treat. concerning Govern. P. 280.

People

People, against the Extenſion of his Malevolence, by means of any other Hands; which makes it the ſame to the People, as if they had a Right to call their chief Magiſtrate to Account, and reprove him for his Conduct. And hence, to avoid Confuſion, we have all along ſpoke as if the Magiſtrate was accountable in his own Perſon; whereas only his Decrees, and the Executors and Adviſers of them, are really liable to Examination and Cenſure.

DAILY Practiſe confirms to the People another Privilege, which, with thoſe already mentioned, comprehends every thing Eſſential to their Liberties, and that is, the Power of making new Laws, for Caſes as yet unprovided; and alſo to repeal and alter old Laws, become by Length of Time inconvenient.

HERE then we have a Society, and Form of Government, founded on, and ſupported by, the genuine Dictates of Reaſon and the Laws of Nature; in which ſo far forth as it has been conſidered, the Principles and Doctrine, contained in the former Part of this Paper, are verified and illuſtrated; every individual poſſeſſing all the Liberty and Independence, the Nature of Man is qualified, in the preſent Frame and Condition of Things, to enjoy. Governed by Laws which he himſelf hath made; by Laws executed in Virtue of his own Appointment; and protected from

the Encroachments of Power, and the Perversion or Evasion of these Laws.

We acknowledge the Crown of Great Britain to be possessed of more than the Execution of the Laws, and the Rights of Prerogative. Certain Privileges are annexed to it, of which the most remarkable, and of greatest Consequence, is, the Negative, which the King may put on all Acts of the Legislative Assembly, whereby, so far, he becomes a Part of the Legislature; and of this, and other Privileges, the Crown cannot be divested without dissolving the Constitution, tho' they are by no Means necessarily connected with the Nature of Man and Society, or the Office of executing the Laws. But still these fundamental Rights remain to the People, of making their own Laws, and calling the Servants of the Crown to account. The People of England are not obliged to submit to any Law without their own Consent, nor can any Law be altered, or repealed, without their Approbation.

However, even in Britain, this must be read with some Abatement; because the Nature of Man is such, that a Power to do Good without Law cannot be taken from any Magistrate, as has already been shewn, without prejudicing, nay dissolving and destroying, the Society, while there remain any Cases, for which express and established Laws have not been provided, (and such there must ever be, while Men are

ignorant and fallible.) Because Society being a State into which Man is obliged, by the Law of Nature, Self-preservation to enter, he can have no Right to remove or abolish, *i. e.* deny his Obedience to, that on which the Essence of this State so absolutely dependeth. Whence for ever there must remain to the Crown of Great Britain, (in Virtue of it's Executive Character,) a Right TO DO GOOD WITHOUT Law, that is to act in extrajudicial Cases for the publick Good and Advantage, WHICH IS PREROGATIVE, founded on Reason, Necessity and Expedience.

HENCE, "whenever a Question shall arise "between the executive Power and the People, "about a Thing claimed as a Prerogative, the "Tendency of the Exercise of such Prerogative "to the Good or Hurt of the People, will easily "decide that Question." Lock's second Treat. concerning Government.

OF late a Question has arisen in this Kingdom, about a Matter claimed as a Prerogative by the Crown, and denied to be such by the People; and as it is a Thing of great Consequence, whether we consider the Import of it, or the Disturbance it has occasioned; I presume it will not be mispending Time, to consider the Question according to the Principles laid down in the Course of this Paper; by applying it to the Rule we have now established, as the Standard and common Measure of all just and reasonable Prerogative.

BUT before we ſet about this Queſtion, it may be neceſſary to premiſe, that tho' the Conſtitution of England and Ireland in ſome Reſpects differ, yet in the preſent Caſe, and all that has been ſaid on the Head of Prerogative, they are perfectly alike, if not the ſame; and that whatever Claim the Crown has in the preſent Queſtion, it muſt be altogether founded on the Rights belonging to it's executive Character.

IN the Year 1753, a conſiderable ſum of publick Money was found remaining in the Treaſury, after the particular ſpecified Purpoſes, for which which it had been raiſed, were anſwered. It being impracticable to return this REDUNDANT MONEY, as it was called, to the Pockets of the People, from whence it had been drawn, and which they had given on a Preſumption ſo much was neceſſary for thoſe Expences, that leſs had perfectly ſupplied; Heads of a Bill were prepared, and paſſed in Parliament, for the Application of this redundant, unappropriated Money, to the Uſes and Advantage of the Nation. Which Application they were not permitted to make, unleſs by the Bill, intended to diſpoſe of this Money, they would acknowledge, THAT NO RIGHT BELONGED TO THEM, *even to* DELIBERATE about, MUCH LESS POINT OUT, the Application of ANY REDUNDANT UNAPPROPRIATED PUBLICK MONEY, UNTILL THE K——G SHOULD GIVE THEM

A PRE-

A PREVIOUS LEAVE, BY SIGNIFYING THAT HE CONSENTED TO THEIR TAKING THIS AFFAIR INTO CONSIDERATION; and consequently, for the Parliament to presume to deliberate about this or such publick Money, without having received the Conge, or PREVIOUS CONSENT of the Crown, was an Infringement on the just and reasonable Prerogative of the Prince, which intitled him to the sole, (and in the Consequence,) unaccountable Disposal of it.

THAT Application of such Money, (unappropriated to any particular End, or Purpose,) for the manifest Ease, Safety or Advantage of the People, may be made by the Crown, we most willingly acknowledge; because to do Good without Law is the Prerogative of all Magistrates. And while such Money remains unappropriated, the Application of it is extrajudicial, and consequently subject to this Prerogative. Yet still the Parliament are the Judges, whether this Money has been made Use of for the Good and Advantage of the People, and the Servants of the Crown are accountable.

BUT if on the Meeting of the Legislative Assembly, (no sufficient Occasion perhaps having offered to justify the Application,) this Money remains unapplied; can it be an Infringement on the Prerogative of the executive Part of the Constitution, the very Idea of which, is that of a Body, or Person, vested with Power to perform,

and

and cauſe to be performed the Decrees of the Legiſlature, and theſe only, unleſs ſome ſudden and unprovided for Emergency, juſtifies by the Danger or Expediency, the diſcretionary Acting of the Executor of the Laws, for the Good and Advantage of the People; I ſay can it be deemed an Infringement on the Prerogative of ſuch Part of the Body Politic, for the Legiſlative Aſſembly, of their own mere Motion, to deliberate how, or in what Manner, the Publick may be benefited, by applying to Advantage this Money, which at preſent lies dead, if not Burthenſome by cramping Trade, and publick Circulation; eſpecially as there is Time and Opportunity ſufficient for them to deliberate and receive a juſt and full Knowledge of the Nature, Neceſſity and Expediency, as well as Manner, of the Application.

But to bring this Right of previous Conſenting to the Teſt; ſuppoſe the Parliament debarred the Liberty of even deliberating about, or adviſing, the Diſpoſal of publick redundant Money, before the Crown ſhall ſignify a previous Conſent for them to proceed on this Article, and that this is by Virtue of Prerogative; let us ſee then how far the Exerciſe of this Prerogative tends to the Advantage or Diſadvantage of the People, for that is the only Teſt by which we ought to decide about the Reality of its Pretenſions.

Indeed it has cost me some Pains to find out even an ideal Advantage, which the People could be supposed to receive from the Exercise of such a Prerogative, and the only one I can pretend to build this Claim of the Crown upon is, that if the Prince had a Power to preserve in his Hands, a Sufficiency of Cash unappropriated, and subject to his Disposal, he would be provided against sudden and dangerous Emergencies, whereby he might be enabled to preserve the State, which otherwise, for Want of such a Supply, might be destroyed, and consequently the Exercise of such a Prerogative would be for the public Good.

But if this says any Thing it says too much, for the very same Reason would be as good against the Crown, when it should resolve to apply such Money to the Benefit as well as Preservation of the Nation, and thereby divest it of its Legitimate Prerogative of acting in extrajudicial Cases, for the public Good and Advantage, instead of extending its Branches.

But suppose some sudden and great Danger hung over the State, which might be foreseen or suspected by the Chief Magistrate, and that it was not expedient to communicate these Suspicions to the Parliament, and that they should proceed to dispose of the redundant Money, whereby the Treasury would be exhausted, and the Magistrate so unprovided, that, by a sudden

Invasion,

Invasion, the State might be destroyed or subdued.

Supposing all this, it does not plead much in Favour of the Right to give a previous Consent; because every Attention of this claimed Prerogative could be more effectually and constitutionally answered, allowing the Probability of the Supposition, by withholding the Royal Assent, without which no Law can be made or established.

What then are the Evils we might have Reason to dread, from the Exercise of this Claim? the Benefits have not been very remarkable. If the Parliament have no Right to deliberate about the redundant public Money, untill the Crown shall be disposed to consent thereto,—I desire to know what Security the People can have, that such Money, levied by themselves, by their own Act and Deed, shall not, when at the Mercy of such a Profligate as Charles the Second, be squandered away on Pimps, on Parasites and Whores? And whether the Want of this Security would not oblige the Parliament, in their Supplies, to cramp the Crown, by levying less than would be necessary, rather than more, as the Safety, Convenience and Dignity of the State would require?

But farther; what Redress could the People have, though they should of a Certainty know, that the Money, which by being unappropriated, had

had been left at the Discretion of the Crown, to apply and dispose of, was most dissolutely murdered; for if we divest the Commons of a Right to deliberate how or in what Manner it may or ought to be applied, without the previous Consent of the Crown first signified, to authorize their Deliberation, they may very well relinquish all Right to enquire how it has been applied, because no Body can imagine it likely, that a Prince will signify his Pleasure, by a Kind of *Congé d'elire*, to a tame mock Tribunal, to authorize their Enquiry, when without having so done, he knows, they cannot enquire, whether that Money be still in the Treasury, or properly disposed of, which he knows has been lavished on the most infamous and abandoned of the human Race, for the worst and vilest Purposes.—Perhaps this is Prerogative! If it be, thank God 'tis the only one that can invite the Servants of the Crown to hurt the People with Impunity!—It need not be mentioned, how much the Publick would suffer, when such a Prerogative was to be exercised by an avaricious Prince; would a covetous Man, whose Heart is set on Money, consent, and of his own Motion too, that the Parliament should open his Hoards?—No surely, at least if he did, he would not act like a private Miser: but perhaps it is for the publick Advantage, that three or four hundred thousand Pounds of the circulating

Caſh of a trading Kingdom, when the whole does not exceed five hundred thouſand, ſhould be locked up in the Coffers of the Treaſury? Such may be a righteous Prerogative; but the Tendency of the Exerciſe of it, is manifeſtly to the Prejudice of the People.

But, again—is it Constitutional to deprive the Legiſlative Body of the Power to enact, where they have ſufficient Knowledge, Time and Opportunity? or can thoſe People be ſaid to live according to Law, their own Law, who are deprived of a Right to legiſlate in one particular Inſtance? and what would be the Conſequence of acknowledging in a Law, that, by the Prerogative of the Crown, the Parliament were excluded from the Right of legally providing; nay even of deliberating about the Proviſion, for one particular Caſe? Whatever that would have been, ſuch muſt have been our Lot, had the Bill of diſcharging Part of the National Debt, paſſed in the Form ſent over by the Privy-Council of England.

Neither by Inclination nor Intereſt, am I diſpoſed to abridge, or curtail the juſt Prerogative of the Crown; and ſatisfied ſufficiently are all his preſent Majeſty's Subjects, that to him too much Power can not be given; as in all Things the publick Advantage; has been the ultimate End of his Actions: but it is not the good Uſe to which a righteous King may turn a particular Power,

Power, that ſhould make us acquieſce in his Exerciſe of it; but it is the little Evil a bad Prince may be able to draw from the ſame, that ſhould be the Meaſure of our Condeſcenſion, becauſe there never was any Indulgence, yielded out of Compliments or Confidence, to the moſt upright of Magiſtrates, which has not been exerciſed, or claimed, by the moſt profligate Succeſſor. But moreover, by our Situation, the Diſpoſal of all redundant Money muſt be according to the Recommendation of thoſe intruſted with the Repreſentation of Majeſty; ſo that be the Prince never ſo juſt and equitable, it will depend on the Honeſty and Ability of the Recommender, whether this Money is properly, and wiſely, diſpoſed of. (a) "And farther, we "may ſuppoſe a Man of mean Birth, mean "Education, and ſtill meaner Habits, in ſome "future Reign and Government, by vile Arts "and worſe than vile Practices, to have gotten "the Management of the G——r or the "G——r's Son and S——ry, that by ſo do-"ing he ſhall become abſolute Director of all "our Affairs, both Publick and Private; and "that he may have withdrawn the Sovereign's "Ear from every Man of Senſe and Honeſty in "the Kingdom; and that he ſhall have made "up for himſelf a motley Faction, compoſed of

(a) Vid. Fatal Conſequence of Miniſterial Power.

"WHIGS, who have BETRAYED and DESERTED
"their Principles of Liberty, and Jacobites,
"who have DISGUISED and QUALIFIED their
"Principles of Loyalty, that he shall have put
"a JACK of his own in every OFFICE, a (a)
"TOOL FIT FOR HIS PURPOSE, and READY to
"OBEY his COMMANDS; and every Man dif-
"missed from Imployment, who refused to pay
"a FAWNING Submission to this MINISTERIAL
"IDOL," and then having abused the Influence
of this Power, by kindling War and Divi-
sion among the People, (c) PROTECTING
WICKED and NOTORIOUS OFFENDERS, he should
only want, to accomplish his grand Project, of
absolute Dominion and Oppression, some new
and extensive Prerogatives to be thrown into
the C——n, of which his should be the Exer-
cise and Advantage; and that under such Cir-
cumstances as these, the Doctrine of previous
Consent having been once acquiesced in, a vir-
tuous House of Commons should on a well-
grounded Apprehension of the bad Use, such a
Caitiff as this might make of their Complaisance,
reject that Bill, the passing of which would be an ab-
solute Confirmation and Establishment of Claim.
Whereby their known Right to apply, and in-
quire into the Application of all publick Money,

(b) See Q. and B. G. M. K. P. S. C. E. &c. &c.
(c) Vid. the enquiry concerning the State of the Barracks.

would

would be vindicated and asserted, as well, the sole End and Aim of all his Plans and Projects, (Tyrannical and Arbitrary Power,) absolutely defeated and frustrated, the Attainment of which, that Right of previous Consenting, (as it would invest him with an unlimited Power, to dispose of so much publick Money,) would have made mighty safe and easy.—Our Case would then indeed deserve Compassion; exposed to every extravagant Oppression, the Bitterness of his mortified Gall could invent, or the Strength of his Power execute. But if this Lord Paramount should CHANCE to be an Ecclesiastic, then what would signify the decrees of God and Nature, or the Wisdom of Man, in the municipial Laws of every Contry; that provides, no Man's private Interest shall be affected by the Determination of any Question, whereon he sits as Judge. Diabolical and impious as his Intentions should be, those who dared withstand his Attempts to give them Birth, would be sure to feel the Iron Rod of his Power,—if they possessed Profits and Employments in the State; these would he sacrifice to his Malice, and their Safety, and tho' they were injoyed as purchased Properties, and the Duties of them never so little connected with that Opposition, while Reason, Conscience and Sense of their Danger, commanded them to resolve on. But whimsical and ridiculous Punishments are

ever

ever to be expected as the overflowing Venom of an inraged and disappointed Monk Priest.—— Can less be hoped from him, who adding PERJURY TO PERFIDY, BETRAYS and ABJURES, BY AN APOSTACY TO POWER, THAT RELIGION, HE HAS SWORN TO PREACH, AND TURN HIS BACK ON THAT GOSPEL, WHICH, LIKE JUDAS (a) HE HAD BEEN PAID TO FOLLOW,—— as did'st thou O, Righteous Cardinal? (b) "who "caused to hang four honest Men for eating "a Goose on Friday, and drowned a young "Woman, because she did not pray to our "LADY in her Birth." (c) Offences in the same degree is henious, and Punishments pretty near a kin to those we have been speaking of?

OR if we suppose this future Arch Fiend, like the Priests of Jeroboam, (d) to have accidentally stumbled into the highest Honours and Preferments of the Church, with which he should be by no means satisfyed; nor yet content with the Dominion, his Station gives him, over those of his own Profession, a large and respectable Body, and the Proprietor of not a single Acre, either in this or any other Kingdom, nor connected to any, the most inconsiderable, Family, by Birth or Alliance.

(a) Judas was a Thief and had the Bag.
(b) What has been may be.
(c) Vid. Hist. of Scotland, by David Lindsay, p. 343.
(d) Jeroboam made Priests of the lowest of the People. ——No bad Way to propagate Infidelity and Immorality.

UNDER

Under Favour of that Temporary Sunshine which the Weakneſs, or Wickedneſs of a tranſient G——r affords him, a Disciple of One who knew not where to lay his Head; he ſhould make Holes with the Fox, and burrow under the State. And as a publick Profeſſion of his Faith, in thoſe Heavenly Crowns and Kingdoms, promiſed by him whose Dominion was not of this World, he ſhould ſtrive to make ſure of an Earthly one, he ſhould go about ſpreading Diſſention and Diviſion among the People; ſetting Father againſt Son, and Son againſt Father, making Boſom Friends mortal Enemies; literally ſending no Peace on Earth but a Sword; and if all this ſhould be to ſtretch his preſent Influence beyond the Date of his temporary Protector, who, like the Wild-Goose, was but a mere Bird of Paſſage; and if the more ſurely to effect this, he ſhould endeavour to erect himſelf an Influence in the Houſe of Commons, by garbling at Elections, by Bribing, Tempting and Corrupting, and if, like Satan, on the Pinacle of Power, he ſhould endeavour to ſeduce one of the moſt beloved, reſpected, and powerful of the Nobles, by his "all these will I give unto thee, if thou wilt fall down and Worship me; (a) and if by ſuch infamous and

(a) Vide Mr. T—— Meſſage, &c.

bare-

barefaced Practices, Corruption and Adultery should begin to be thought Honourable, and much that Men would not stipple publickly to declare. One, that he voted at an Election, for the mean Gratification of an Excise-man's Place for his Son. And another to produce Letters in publick, whereby it appeared, his Brother was to be turned out of a Lucrative Imployment, and himself forfeit all Expectation of those Benefits, he had been promised, if he did not vote contrary to his Conscience, on a certain Side. (b) And if, having by such Means got some Tools into the House of Commons, he should to impose on the P——e, by Pretence to support his Prerogative, have this Question about the Right of previous Consent, again brought into the House, thereby putting the Faithful and Liege Commons under the trying Alternative of either disputing the most Righteous and Godlike of Princes, by refusing to acknowledge, or giving up themselves and their Posterity, to the Sport and Caprice of any Hungry and Rapacious G——r, who shall chance to impose on the Weakness, or comply with the Wickedness, of a future M——, by admitting it; (which he knew the Commons could not do from a Sense of their own Safety, and a true Knowledge of the End and Intention of that

(b) Vid. Letter from a Burgess of Monaghan, &c.

Claim,)

Claim,) and that by his eſpouſing what would be called the Prerogative ſide of this Queſtion; he would have his Purpoſes anſwered, by ſecuring to himſelf an Influence, as the Confidence of the Crown never fails to confer. What Benefits could the People expect from the Recommendation of ſuch a Miniſter of Darkneſs? can it be imagined that by his Influence, which ſuch means as we have ſuppoſed have rendered moſt prevalent, any Application of redundant Money would be to the Advantage of the Publick, eſpecially when he might know, he was accountable, but as far as he pleaſed for the Diſpoſal of it? Does any Body think a Power like this would be EXERCISED for the Good of the People, by one who took ſuch wicked and unjuſt Means to acquire the EXERCISE of it. Who not content to imbroil the Nation, could even cramp Trade, or ruin publick Credit, to gratify his private Malice againſt a public Officer.

AND tho' nothing of this Kind can be apprehended in our Days; yet ſuch there may be in Times to come, when I doubt not, there would be Wretches enough ready to aſk, when the Reſentment and Diſdain of the Nation was kindled, and ready to burſt upon ſuch a Monſter as him we have been ſuppoſing; "What "is Aaron, that ye murmur againſt him?"—

Aaron is not a Bishop, James Kennedy, (a) WHO IN HIS DAYS, DAYS OF POPERY AND SUPERSTITION, WAS WONDROUS WISE AND GODLY; AND WAS WELL LEARNED IN DIVINE SCIENCE, WHICH HE PRACTISED TO THE GLORY OF GOD, AND THE COMMON WEAL OF HIS PEOPLE. He did not defy God, by an absolute Contempt for his Church, and all the Duties of the Sacerdotal Function. FOR HE, IN HIS OWN PERSON; CAUSED ALL PARSONS AND VICARS TO REMAIN AT THIER PARISH CHURCHES; not to go about (b) Tempting and Cajoling for Votes at Elections, AND CAUSED THEM TO PREACH THE WORD OF GOD UNTO THE PEOPLE; not to trumpet out Principles of Slavery, (c) or else the empty Virtues, at best, but negative Vices, of their Sovereign Pontiff. AND ALSO THE SAID BISHOP VISITED EVERY CHURCH WITHIN HIS DIOCESS FOUR TIMES A YEAR. He did not Sacrilegiously absent himself from the Duties of his Function, while he revelled on the Hire; nor did he think it enough once in THREE YEARS to visit Christ's Flock by Proxy; while his own Attendance was imployed in the Service of the Mammon of Unrighteousness and Power. AND HE PREACHED TO THE

(a) Lindsay's Hist. of Scotland, p. 126.
(b) Vide Dr. H——n's Journey to Aldee, for a Freeman of Navan.
(c) Vide Candid Inquiry.

PARISHIONERS

PARISHIONERS IN THE CHURCHES HE VISITED; O! when did our Aaron preach!—— AND REQUIRED OF THEM, WHETHER THEY WERE DULY INSTRUCTED IN THE WORD OF GOD, BY THEIR PARSON AND VICAR; it was not their Votes he required:—Careless what hold the Devil had of their Souls, provided their Bodies were subject to his Power or Pleasure. He would rather be one among Saints, than the Tyrant of Fiends;—such was Bishop James Kennedy, worthy of his Sacred Character; a Character dignified by God, reverenced and esteemed by all Good Men. And now what is Aaron? in Tenderness to that Religion, which his Impious and Sacrilegious Ambition has blasphemed; and in Regard to that Sacred Function, his Apostacy to Power has betrayed: I shall not draw the Comparison.

I Am, &c.

S—— X——.

FINIS.